

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 86-35 AND ORDINANCE NO. 91-42; PROVIDING FOR AN INCREASE IN FRANCHISE FEES; PROVIDING FOR A REVISION IN THE TIME OF PAYMENT; PROVIDING FOR THE ELIMINATION OF THE PEG FEE; PROVIDING FOR TITLE CORRECTION; PROVIDING FOR ADDITIONAL MEMBERSHIP TO THE EDUCATION AND GOVERNMENT PROGRAMMING ADVISORY BOARD; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Cable Communications Policy Act of 1984, Section 622, enables the County, as the local franchising authority, to impose franchise fees; and

WHEREAS, the franchise fees are to be utilized for the administration of the cable television department and to compensate the County for the use of its public rights-of-way and facilities; and

WHEREAS, Palm Beach County desires to exercise its right, as reserved in Ordinance No. 86-35, Article XXIX, Section 1, to increase franchise fees to the extent permitted by law; and

WHEREAS, the Board of County Commissioners is desirous of eliminating the one percent (1%) fee that was utilized for capital expenditures for County Channel 20 so that the cable subscribers of Palm Beach County are not affected in any way; and

WHEREAS, the Board of County Commissioners created an Educational and Government Programming Advisory Board to assist them in matters relating to County Channel 20; and

WHEREAS, the Board of Commissioners desires to increase the membership of said Board from one citizen-at-large to two citizens-at-large as it is felt that participation by consumers would be beneficial to all citizens of Palm Beach County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

SECTION 1.

Article XII, "Fees", Section 1, of Ordinance No. 86-35 is hereby amended to read:

For the reason that the streets and other facilities of the County to be used by the cable operator in the operation of the cable system within the boundaries of the franchise area are valuable public properties acquired and maintained by the County at the expense of its taxpayers, and that the grant to the cable operator to use said streets and facilities as herein provided is a valuable property right without which the cable operator would be required to invest substantial capital in rights-of-way costs and acquisitions, and as consideration for the use of said streets and other facilities of the County for the cable operator's purposes herein provided, and to compensate the County for foregoing its rights to provide the franchised service itself; and to defray the expense of (1) regulating cable operators, (2) administering this ordinance, and (3) matters associated with this ordinance; and to pay for the cost of the County's funding the establishment and operation of Public, Educational and Government Access Channels, including capital costs, any every cable operator shall pay to the County a franchise fee of ~~four percentum (4%)~~ five percentum (5%) of its gross annual revenues for each year of the term of the franchise. ~~The portion of the fee set forth herein for Public, Educational and Government Access Channels shall not be construed as a Public, Educational, and Government Access channel fee restricted in its use to capital costs by the Act.~~ Said franchise fee shall be in addition to all other taxes, fees, and assessments which are required to be paid to the County, and which do not constitute a franchise fee under the Cable Communications Policy Act of 1984. ~~Said franchise fee may be increased to the maximum amount permitted by law, including fees for capital costs associated with Public, Educational and Government services, as the Board of County Commissioners deems appropriate.~~

SECTION 2.

Article XII, "Fees", Sections 2(A), (E), and (F) of Ordinance No. 86-35 is hereby amended to read:

(A) Franchise fees due and payable to the County shall be calculated semi-annually, beginning with the period January 1, 1992, to June 30, 1992, and every six months thereafter. Payment shall be due within ~~ninety (90)~~ sixty (60) days after the close of the six month fiscal period. Adjustments shall be made, if any, as a result of the report required under Article XIII, Section 2, and a surcharge made in accordance with Section 2(B) hereof, if an underpayment to the County has occurred.

(E) In the event that any payment is not made within ten (10) days after the ~~ninety (90)~~ sixty (60) day period fixed in Section 2(A), compound interest on such payment shall apply from such date at the prime rate of interest as established by the Federal Reserve Board at the time the ~~ninety (90)~~ sixty (60) day period expires.

(F) Prepayment of fees shall be reduced to present value using a per annual interest rate two percentum (2%) below the prime rate of interest as established by the Federal Reserve Board at the time the ~~ninety (90)~~ sixty (60) day period expires.

1 SECTION 3.

2 The title of Article XXXII, Section 1, set forth in Section 2,
3 of Ordinance No. 91-42, is hereby corrected to read:

4 Section 1. Activated Publie Educational and Government
5 Channel.

6 SECTION 4.

7 Article XXXII, Section 2, of Ordinance No. 86-35, as amended
8 by Section 2 of Ordinance No. 91-42, is hereby amended to
9 expand the membership of the Educational and Government
10 Programming Advisory Board. The final category shall read:

11 °Two citizens-at-large.

12 SECTION 5.

13 Article XXXII, Section 7, "PEG Fees" of Ordinance No. 86-
14 35, as amended by Section 2 of Ordinance No. 91-42, is
15 hereby deleted in its entirety.

16 SECTION 6. REPEAL OF LAWS IN CONFLICT

17 All local laws and ordinances applying to the unincorporated
18 area of Palm Beach County in conflict with any provisions of this
19 ordinance are hereby repealed.

20 SECTION 7. SEVERABILITY

21 If any section, paragraph, sentence, clause, phrase, or word
22 of this ordinance is for any reason held by the Court to be
23 unconstitutional, inoperative or void, such holding shall not
24 affect the remainder of this ordinance.

25 SECTION 8. INCLUSION IN THE CODE OF LAWS AND ORDINANCES

26 The provisions of this ordinance shall become and be made a
27 part of the code of laws and ordinances of Palm Beach County,
28 Florida. The sections of this ordinance may be renumbered or
29 relettered to accomplish such, and the word "ordinance" may be
30 changed to "section," "article," or any other appropriate word.

31 SECTION 9. EFFECTIVE DATE

32 The provisions of this ordinance shall become effective upon
33 receipt of acknowledgement by the Secretary of State.

1 APPROVED and ADOPTED by the Board of County Commissioners of
2 Palm Beach County, Florida, on the 17 day of March,
3 1992.

4 PALM BEACH COUNTY, FLORIDA, BY ITS
5 BOARD OF COUNTY COMMISSIONERS

6 By: [Signature]
7 Chairman

8 APPROVED AS TO FORM AND
9 LEGAL SUFFICIENCY

10 By: [Signature]
11 County Attorney

MILTON T. BAUER, CLERK
Board of County Commissioners

By: [Signature]
DEPUTY CLERK

12 Acknowledgement by the Department of State of the State of
13 Florida, on this, the 24th day of March,
14 1992.

15 **EFFECTIVE DATE:** Acknowledgement from the Department of State
16 received on the 27th day of March, 1992,
17 at 2:20 P.M., and filed in the Office of the Clerk of the Board of
18 County Commissioners of Palm Beach County, Florida.

19 increse2.ord

STATE OF FLORIDA
The Board of County Commissioners
certify that this document was
filed in my office on 3/17/92
DATED at West Palm Beach, Fl. on 3/30/92
Clerk, BOC
By: [Signature]
Deputy Clerk